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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/578,662

05/25/2000

Eliel Villa-Aleman

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5878

27863

7590

05/13/2004

MCNAIR LAW FIRM

P.O. BOX 10827

GREENVILLE, SC 29603-0827

EXAMINER

KIBLER, VIRGINIA M

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/578,662

Applicant(s)

VILLA-ALEMAN, ELIEL

Examiner

Virginia M Kibler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-30 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/12/03 has been entered.

Response to Amendment

2. The amendment received on 3/15/04 has been entered. Claims 21-30 remain pending.

3. The declaration under 37 CFR 1.132 filed 10/24/03 is insufficient to overcome the rejection of claims 21-30 based upon Haddock ("SRS shows investigation tools") because: the facts presented are not germane to the rejection at issue.

Section I seems to be directed toward reduction to practice. However, the article is relied upon as a published article, not as a put into practice. An electronic publication, including Internet publication, is considered to be a "printed publication" within the meaning of 35 U.S.C. 102(a) and (b) provided the publication was accessible to persons concerned with the art to which the document relates (MPEP 2128, "Electronic Publications as Prior Art"). The article was published over a year before the filing date. Rejections based on a reference which is prior art under 35 USC 102(b) cannot be sworn behind. The features of the claimed invention relied upon are expressly stated in the article.

Claim Objections

4. Claim 27 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. The elements of claim 27 are found in part c of claim 22.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernandez (6,485,981) in view of Haddock ("SRS shows investigation tools").

Regarding claim 21, Fernandez discloses a light source system for on-site analysis of a surface having fingerprints and other latent indicia thereupon (Figure 1) including at least one LED 21 for illuminating the surface for analysis with unfiltered light emitted directly from the diode at a wavelength that will cause a fluorescing dye applied to the surface to emit detectable light from fingerprints (Col. 4, lines 58-67; Col. 13, lines 1-27), a portable mounting for the diode (Figure 1), a portable power source for powering the diode (Col. 11, lines 53-67), a lens for detecting the fluorescent light (Col. 12, lines 1-6). Fernandez does not disclose the lens being worn by a user in the form of goggles or eyeglasses. However, Haddock discloses a light source

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system for on-site analysis of fingerprints including a lens being worn by a user in the form of goggles (Pages 1-2). Fernandez and Haddock are combinable because they are in the same field of endeavor of latent fingerprint analysis. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the lens disclosed by Fernandez to include goggles worn by a user. The motivation for doing so would have been because it allows user to spot dusted fingerprints easily (Haddock, Page 2). Therefore, it would have been obvious to combine Fernandez with Haddock to obtain the invention as specified in claim 21.

Regarding claim 22, Fernandez discloses at least one LED which emits unfiltered light at wavelengths which will cause a dye applied to the surface to fluoresce and show the presence of fingerprints (Col. 4, lines 58-67; Col. 13, lines 1-27) and a portable power source for the LED (Col. 11, lines 53-67). Fernandez does not disclose a personal attachment device on which the LED is mounted. However, Haddock discloses including a personal attachment device on which the light is mounted, the device being attachable in a manner to provide hands-free use of the light source (Pages 1-2). Fernandez and Haddock are combinable because they are in the same field of endeavor of latent fingerprint analysis. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the portable light source disclosed by Fernandez to include attaching the light source to a personal attachment device. The motivation for doing so would have been because it alleviates lugging around a light box and allows the user a hands-free system thereby providing a more efficient process (Haddock, Page 2). Therefore, it would have been obvious to combine Fernandez with Haddock to obtain the invention as specified in claim 22.

Regarding claim 23, the arguments analogous to those presented above for claim 22 are applicable to claim 23.

Regarding claim 24, Fernandez discloses an array of LEDs comprising between 2 and 100 LEDs (Col. 13, lines 20-27).

Regarding claim 25, the arguments analogous to those presented above for claim 22 are applicable to claim 25. Note, Haddock discloses the personal attachment as a helmet (Page 2), thereby including a supporting headband.

Regarding claim 26, Fernandez discloses a wavelength of 450 nm (Col. 13, lines 20-27).

Regarding claim 27, the arguments analogous to those presented above for claim 22 are applicable to claim 27.

Regarding claim 28, Fernandez discloses a method of on-site analysis of a surface having fingerprints and other latent indicia thereon (Figure 1) including applying a fluorescing dye 13 to the surface to be investigated (Figure 1), illuminating the surface to which the dye has been applied with unfiltered light emitted directly from at least one LED at a wavelength that will cause the dye to fluoresce (Col. 4, lines 45-67), the diode and its power supply being portably mounted (Figure 1; Col. 11, lines 53-67), detecting reflected, fluorescing light from the surface by viewing light through a lens that transforms reflected fluorescent light to light visible to the human eye (Col. 12, lines 1-6; Figure 2). Fernandez does not disclose the viewing being performed hands-free without manually manipulating the lens or diode. However, Haddock discloses a light source system for on-site analysis of fingerprints including a lens being worn by a user in the form of goggles (Pages 1-2), thereby the viewing being performed hands-free without manually manipulating the lens or the diode. Fernandez and Haddock are combinable

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because they are in the same field of endeavor of latent fingerprint analysis. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the lens disclosed by Fernandez to include goggles worn by a user. The motivation for doing so would have been because it allows user to spot dusted fingerprints easily (Haddock, Page 2). Therefore, it would have been obvious to combine Fernandez with Haddock to obtain the invention as specified in claim 21.

Regarding claim 29, the arguments analogous to those presented above for claim 22 are applicable to claim 29.

Regarding claim 30, the arguments analogous to those presented above for claims 21 and 25 are applicable to claim 30.


Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia M Kibler whose telephone number is (703) 306-4072. The examiner can normally be reached on Mon-Thurs 8:00 - 5:30 and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on (703) 308-6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Virginia Kibler
05/07/04

MEHRDAD DASTOURI
PRIMARY EXAMINER

